

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
COLUMBIA DIVISION

DOROTHY LEE)
)
v.) NO. 1-10-0051
) JUDGE CAMPBELL
MAURY COUNTY, TENNESSEE)
BOARD OF EDUCATION)

MEMORANDUM

Pending before the Court is Defendant's Motion to Strike Plaintiff's Jury Demand (Docket No. 18). For the reasons stated herein, Defendant's Motion is DENIED.

Plaintiff's Amended Complaint (Docket No. 3) alleges employment discrimination claims against Defendant pursuant to Title VII (42 U.S.C. § 2000e-3), the Tennessee Human Rights Act (Tenn. Code Ann. § 4-21-401), and Section 1981 (42 U.S.C. § 1981). Plaintiff contends that Defendant, her former employer, discriminated against her because of her race and gender and in retaliation for her opposition to unlawful employment practices.

Defendant has moved to strike Plaintiff's jury demand, arguing that this case is governed by the Tennessee Governmental Tort Liability Act ("TGTLA"), which requires that a state circuit court hear and decide the action without the intervention of a jury. Tenn. Code Ann. § 29-20-307.


This action is not brought pursuant to the TGTLA, however. Plaintiff's claims are not tort claims, such as negligence or assault and battery; they are statutory claims. Thus, the TGTLA limitation on jury trials is not applicable here.

"[I]t is unlikely that the discrimination which the plaintiff claims to have suffered is the kind of 'injury' specified by Tenn. Code Ann. § 29-20-102, which has been held to encompass torts, but

not contracts. Race and age discrimination, which are actionable only by virtue of statutory fiat, are not really torts qua torts. Therefore, it appears that the Governmental *Tort* Liability Act does not immunize governmental entities from THRA claims in the first instance.” *See, e.g., Rooks v. Chattanooga Elec. Power Bd.*, 738 F.Supp. 1163 (E.D. Tenn. 1990) (citation omitted, emphasis in original).

Because there is a right to a jury trial under Title VII,¹ the THRA,² and Section 1981,³ the statutory bases for Plaintiff’s claim, Defendant’s Motion to Strike (Docket No. 18) is DENIED.

IT IS SO ORDERED.



TODD J. CAMPBELL
UNITED STATES DISTRICT JUDGE

¹ 42 U.S.C. § 1981a(c).

² *The University of Tennessee of Chattanooga v. Farrow*, 2001 WL 935467 at * 1 (Tenn. Ct. App. Aug. 16, 2001).

³ *Jones v. Metropolitan Hospital and Health Centers*, 88 F.R.D. 341, 343 (E.D. Mich. 1980); *Williams v. Owens-Illinois, Inc.*, 665 F.2d 918, 928 (9th Cir. 1982).